

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: KANTOR et al.

Application No.: 10/779,366

Group Art Unit: 2882 (prior)

Application Filed: February 13, 2004

Examiner: C. Thomas  
(prior application)

For: DENTAL X-RAY APPARATUS

**Petition to Accord Filing Date Per 37 C.F.R. §1.57 for Application Filed  
Under 37 C.F.R. § 1.53(b)**

Mail Stop PETITIONS  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Pursuant to 37 C.F.R. § 1.57, this is a petition to address a Notice of Incomplete Nonprovisional Application issued in the above-captioned patent application. Applicants submit that the application was complete as filed, due to incorporation by reference of drawings from a prior-filed patent application resulting from Applicant's priority claim under § 1.78, as further explained herein.

On February 13, 2004, applicants filed the above-captioned patent application, and inadvertently omitted the drawings, namely Figs. 1-3 referenced in the specification at page 4. However, on page 1 of the application, Applicants included the following claim of priority: "This application is a continuation of pending application US Serial No. 10/279,607, which is a divisional of US Serial No. 09/577,443, abandoned on September 24, 2003."

On August 19, 2005, the USPTO mailed a Notice of Incomplete Nonprovisional Application stating "the application was deposited without drawings." The Notice further indicates "a newly executed oath or declaration covering the items must be submitted."

With respect to inadvertently omitted drawings, 37 C.F.R. § 1.57 specifically provides that:

10/24/2005 NNGUYEN1 00000015 501059 10779366

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**Subject to the conditions and requirements of this paragraph, if all or a portion of the specification or drawing(s) is inadvertently omitted from an application, but the application contains a claim under § 155 for priority of a prior-filed foreign application, or a claim under § 1.78 for the benefit of a prior-filed provisional, nonprovisional, or international application that was present on the filing date of the application, and the inadvertently omitted portion of the specification or drawings(s) is completely contained in the prior-filed application, the claim under § 1.55 or § 1.78 shall also be considered an incorporation by reference of the prior-filed application as to the inadvertently omitted portion of the specification or drawings(s).**

Applicants respectfully submit that the priority claim included in the above-captioned application is a proper claim of priority under 37 C.F.R. §1.55, and that as a result, the specification and drawings of patent application 10/279,607 are automatically incorporated by reference under 37 C.F.R. § 1.57. As required by § 1.57(1), Applicant is including herewith a Preliminary Amendment attaching the inadvertently omitted drawings as Replacement Sheets, as well as a complete copy of application 10/279,607. Applicant submits that the inadvertently omitted drawings can be found at pages 9-11 of application 10/279,607.

Applicant hereby states that the application is entitled to a filing date, since the inadvertently omitted drawings are incorporated into the original application by reference pursuant to 37 C.F.R. § 1.57. Therefore, Applicant is also including herewith a Request for Refund of Petition Fee with this Petition.

The Commissioner is hereby authorized to charge indicated fees, including the petition fee of \$400 set forth in 37 C.F.R. §1.17(f), and credit any overpayments to Deposit Account No. 50-1059. Upon approval of this Petition, Applicant requests refund of the petition fee per the attached Request.

Respectfully submitted,

**McNEES, WALLACE & NURICK**

By



**Kurt L. Ehresman**

Reg. No. 50,758

100 Pine Street, P.O. Box 1166

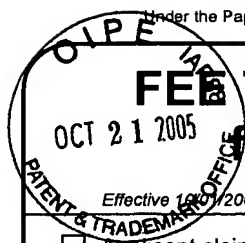
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Dated: October 19, 2005

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# FEE TRANSMITTAL for FY 2005

Effective 10/1/2004. Patent fees are subject to annual revision.

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$) 400

## Complete if Known

Application Number 10/779,366  
Filing Date February 13, 2004  
First Named Inventor KANTOR et al.  
Examiner Name 2882 (prior application)  
Art Unit C. Thomas (prior application)  
Attorney Docket No. 22177-0019-C2

## METHOD OF PAYMENT (check all that apply)

☐ Check ☐ Credit card ☐ Money Order ☐ Other ☐ None

☒ Deposit Account:

Deposit Account Number

50-1059

Deposit Account Name

McNees Wallace & Nurick LLC

The Director is authorized to: (check all that apply)

☒ Charge fee(s) indicated below ☒ Credit any overpayments  
☐ Charge any additional fee(s) during the pendency of this application  
☐ Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.

## FEE CALCULATION

### 1. BASIC FILING FEE

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1001	790	2001	395	Utility filing fee	
1002	350	2002	175	Design filing fee	
1003	550	2003	275	Plant filing fee	
1004	790	2004	395	Reissue filing fee	
1005	160	2005	80	Provisional filing fee	
SUBTOTAL (1)					(\$ 0)

### 2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

Total Claims	Extra Claims	Fee from below	Fee Paid
	0		0
Independent Claims	Extra Claims	Fee from below	Fee Paid
	0		0
Multiple Dependent	Extra Claims	Fee from below	Fee Paid
			0

Large Entity		Small Entity		Fee Description
Fee Code	Fee (\$)	Fee Code	Fee (\$)	
1202	18	2202	9	Claims in excess of 20
1201	88	2201	44	Independent claims in excess of 3
1203	300	2203	150	Multiple dependent claim, if not paid
1204	88	2204	44	** Reissue independent claims over original patent
1205	18	2205	9	** Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) (\$ 0)

\*\*or number previously paid, if greater; For Reissues, see above

## FEE CALCULATION (continued)

### 3. ADDITIONAL FEES

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1051	130	2051	65	Surcharge - late filing fee or oath	
1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet.	
1053	130	1053	130	Non-English specification	
1812	2,520	1812	2,520	For filing a request for reexamination	
1804	920*	1804	920*	Requesting publication of SIR prior to Examiner action	
1805	1,840*	1805	1,840*	Requesting publication of SIR after Examiner action	
1251	110	2251	55	Extension for reply within first month	
1252	430	2252	215	Extension for reply within second month	
1253	980	2253	490	Extension for reply within third month	
1254	1,530	2254	765	Extension for reply within fourth month	
1255	2,080	2255	1,040	Extension for reply within fifth month	
1401	340	2401	170	Notice of Appeal	
1402	340	2402	170	Filing a brief in support of an appeal	
1403	300	2403	150	Request for oral hearing	
1451	1,510	1451	1,510	Petition to institute a public use proceeding	
1452	110	2452	55	Petition to revive - unavoidable	
1453	1,330	2453	665	Petition to revive - unintentional	
1501	1,370	2501	685	Utility issue fee (or reissue)	
1502	490	2502	245	Design issue fee	
1503	660	2503	330	Plant issue fee	
1460	130	1460	130	Petitions to the Commissioner	
1807	50	1807	50	Processing fee under 37 CFR 1.17 (q)	
1806	180	1806	180	Submission of Information Disclosure Stmt	
8021	40	8021	40	Recording each patent assignment per property (times number of properties)	
1809	790	2809	395	Filing a submission after final rejection (37 CFR § 1.129(a))	
1810	790	2810	395	For each additional invention to be examined (37 CFR § 1.129(b))	
1801	790	2801	395	Request for Continued Examination (RCE)	
1802	900	1802	900	Request for expedited examination of a design application	

Other fee (specify) Petition Fee Under CFR 1.17 and 1.53(e)

400.00

\*Reduced by Basic Filing Fee Paid

SUBTOTAL (3)

(\$ 400)

## SUBMITTED BY

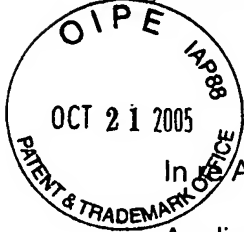
Complete (if applicable)

Name (Print/Type) Kurt L. Ehresman Registration No. (Attorney/Agent) 50,758 Telephone (717) 237-5458  
Signature Date October 19, 2005

**WARNING:** Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

This collection of information is required by 37 CFR 1.17 and 1.27. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing this form, call 1-800-PTO-9199 (1-800-786-9199) and select option 2.



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In re Application of: KANTOR et al. :  
: :  
Application No.: 10/779,366 : Group Art Unit: 2882 (prior)  
: :  
Application Filed: February 13, 2004 : Examiner: C. Thomas  
: : (prior application)  
: :  
For: DENTAL X-RAY APPARATUS

**REQUEST FOR REFUND OF PETITION FEE**

Mail Stop MISSING PARTS  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Pursuant to 37 C.F.R. § 1.211(e) Applicant hereby requests the refund of the Petition Fee paid pursuant to 37 C.F.R. 1.17(f) in the above referenced Application. Applicant paid the fee of \$400.00 contemporaneously with the filing of the Petition to Accord a Filing Date herewith.

As more fully explained in the Petition to Accord a Filing Date filed herewith, Applicant submits that the above-captioned application was complete as filed. Therefore, Applicant hereby requests that any Petition Fee assessed in the above-referenced Application be refunded or credited to Deposit Account 50-1059. If there are any questions about this Request, please contact the undersigned.

Respectfully submitted,

**McNEES, WALLACE & NURICK**

By

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100 Pine Street, P.O. Box 1166  
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Dated: October 19, 2005